

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SOLOMON WILLIAMS, et al.,

Plaintiffs,

v.

THE BOEING COMPANY, et al.,

Defendants.

No. C98-761P

ORDER DENYING
PLAINTIFFS' MOTION IN
LIMINE TO EXCLUDE
TESTIMONY BY DR. WARD
AS TO COHORT ANALYSIS

This matter comes before the Court on Plaintiffs' motion in limine to exclude testimony by Dr. Ward as to cohort analysis. (Dkt. No. 917). The Court DENIES Plaintiffs' motion.

Plaintiffs argue that Dr. Ward's cohort analysis should be excluded because it does not measure discrete acts of promotion, but instead compares salary growth for similarly-situated African-Americans and white employees. They also argue that Dr. Ward's report does not constitute "good science" under the standards of Fed. R. Evid. 702.

As the Court has previously noted, Plaintiffs' claims for discrimination in promotions are distinct from claims for discrimination in compensation. However, this distinction does not preclude Defendants from arguing that a method for assessing whether promotion discrimination has occurred would be to examine how the earnings of similarly-situated African-Americans and

1 whites have progressed over time. Dr. Ward's analysis is also sufficient to satisfy the
2 admissibility requirements of Fed. R. Evid. 702. At trial, Plaintiffs will be free to challenge Dr.
3 Ward's analysis and to argue that his analysis does not measure discrete acts of promotion.

4 The Court also denies Plaintiffs' alternative request to preclude Dr. Ward from testifying
5 about a modified cohort study that he presented in his rebuttal report. Dr. Ward may testify
6 about his modified study to the extent that Plaintiffs open the door to such testimony by
7 challenging his initial study for including merit pay increases.

8 The clerk is directed to send copies of this order to all counsel of record.

9 Dated: December 2, 2005.

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11 s/Marsha J. Pechman
12 Marsha J. Pechman
13 United States District Judge
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